



Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations, 30 CFR part 44, govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 4th floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2015-002-M.

Petitioner: Solvay Chemicals, Inc., P.O. Box 1167, 400 County Road 85, Green River, Wyoming 82935.

Mine: Solvay Chemicals, Inc., MSHA I.D. No. 48-01295, located in Sweetwater County, Wyoming

Regulation Affected: 30 CFR 57.4760(a) (Shaft mines).

Modification Request: The petitioner requests a modification of the existing standard due to the potential negative impact that would adversely affect the safety of persons in the mine as a result of changes to the mine ventilation system. The petitioner states that:

1. The proposed modification would allow relief from providing at least one of the following means in the event of fire, smoke or toxic gases as stated in 30 CFR 57.4760(a):

(a) Solvay Chemicals, Inc. is categorized as a Category III mine in which non-combustible ore is extracted.

(b) The mine liberates a concentration of methane that is explosive, or is capable of forming explosive mixtures with air, or has the potential to do so, based on the history of the mine or the geological area in which the mine is located.

2. A Category III mine is subjected to 30 CFR 57.22214(a), which requires that any changes in ventilation which affect the main air current or any split thereof and which adversely affect the safety of persons in the mine must be made when the mine is idle.

3. The installation of control doors or the reversal of mechanical ventilation would affect the main air currents and splits thus adversely impacting the ventilation system's ability to render and dilute concentrations of toxic gases or methane gas. Additionally, the installation of control doors or the reversal of mechanical ventilation can only be achieved by shutting down the mines main exhaust fans. Due to the expanse of the mine, evacuation of all personnel underground to the surface in ten minutes or less is not an alternative means of compliance with the standard.

4. The best solution is to remove the miners in a safe manner prior to making any ventilation changes, that include closure or opening of control doors or mechanical ventilation reversal.

5. When a fire is detected the protocol within the Emergency Response Plan will be followed to include evacuating the mine in a safe and effective manner prior to making any ventilation changes.

6. The mine maintains two designated separate escapeways which provides miners with means of evacuating the mine; reducing the likelihood of miners having to travel through smoke or toxic gasses.

The petitioner asserts that compliance with the existing standard would result in a diminution of safety to the miners at the Solvay Chemicals Mine.

Docket Number: M-2015-003-M.

Petitioner: Tata Chemicals (Soda Ash) Partners, P.O. Box 551, Green River, Wyoming 82935.

Mine: Tata Chemicals Mine, MSHA I.D. No. 48-00155, located in Sweetwater County, Wyoming

Regulation Affected: 30 CFR 57.4760(a) (Shaft mines).

Modification Request: The petitioner requests a modification of the existing standard because compliance with the 30 CFR 57.4760(a) via installation and use of control doors at mine intake shafts will likely result in a dangerous and impermissible change in underground ventilation, thereby diminishing the safety of miners working underground. Additionally, compliance with 30 CFR 57.4760(a) via installation and use of control doors would conflict with petitioner's ability to comply with another mandatory safety standard for Category III mines, 30 CFR 57.22214.

Petitioner is requesting relief from compliance with 30 CFR 57.4760(a) due to the potential diminution of safety to miners from the changes to the mine ventilation system that would likely result from installing and using control doors in the event of an underground fire. The petitioner states that:

1. On March 18 and 19, 2015, MSHA issued Citation Numbers 8830553, 8830554, and 8830555 at Tata Chemicals intake shafts #6, #2, and #3 alleging that Tata failed to provide control doors in compliance with 30 CFR 57.4760(a). 30 CFR 57.4760(a) provides three alternative methods that shaft mines must follow to control the spread of fire, smoke, and toxic gases underground in the event of a fire: (1) installation of control doors, (2) reversal of mechanical ventilation, or (3) implementation of effective evacuation procedures. MSHA concedes in all three citations that reversal of the mine's

mechanical ventilation system is not a feasible means of compliance with 30 CFR 57.4760(a), as fan reversal would push methane over nonpermissible equipment.

2. Although petitioner has an emergency evacuation plan, there is no feasible means of ensuring evacuation of miners working underground within ten minutes, as the regulation requires, due to the vast size of the petitioner's mine. Thus, MSHA concluded, that the petitioner must install control doors at its intake shafts in order to comply with 30 CFR 57.4760(a).

3. For the following reasons, petitioner disagrees with MSHA's conclusion, contends that there is no safe way of complying with the cited standard, and requests a variance from its application at the mine.

4. Petitioner conducted an independent analysis of the impacts that installation and use of a single or multiple intake air shaft ventilation control doors would have on the integrity of the mine's ventilation infrastructure and on the health and safety of miners working underground. The analysis concluded that:

(a) Using doors to isolate #2, #3, or #6 intake shafts constitutes a major air change. Changes of this magnitude will detrimentally influence the mine ventilation airflow balance. It would result in several likely scenarios that could quickly introduce return air and methane into the intake airways where numerous ignition sources exist.

(b) The fans are set to operate at the intersection of the fan and mine pressure-volume curves.

(c) A major air change modifies the mine curve and a new operating point of the fan is established.

(d) If the fans are not shut off before the air change, the operating point is likely to move toward or into this stall zone which will lead to damage and possible destruction of the fan and/or ventilation structures.

(e) The closure of control doors at intake shafts in the event of a fire would affect the main air currents and splits, thereby adversely impacting the ability of the ventilation system to dilute and render harmless concentrations of toxic gases or methane gas and in turn, endangering the health and safety of miners working underground.

5. The Tata mine is a Category III mine, a classification that applies to mines “in which noncombustible ore is extracted and which liberate a concentration of methane that is explosive, or is capable of forming explosive mixtures with air, or have the potential to do so based on the history of the mine or the geological area in which the mine is located. The concentration of methane in such mines is explosive or is capable of forming explosive mixtures if mixed with air,” 30 CFR 57.22003(a)(3). Tata must comply with the regulations applicable to Category III mines, including 30 CFR 57.22214(a), which mandates that changes in ventilation which affect the main air current or any split thereof and which adversely affect the safety of persons in the mine will only be made when the mine is idle. Petitioner states that it is not possible to comply with both 30 CFR 57.4760(a) and 57.22214(a) at the Tata mine because the closure of one or more control doors in the event of a fire would certainly affect the main air currents and splits in such a way as to endanger the safety of persons working underground. Under 30 CFR 57.22214(a), such a ventilation change can only be carried out when the mine is idled with no miners underground. Compliance with 30 CFR 57.4760(a) via closure of a

control door would not only endanger miners but would also be in violation of 30 CFR 57.22214(a).

6. 30 CFR 57.4760(a) does not take into account the complexities involved with suddenly restricting airflow in mines that have multiple shafts, multiple fan installations, and methane liberation. Petitioner noted that Part 75, which regulates underground coal mines, does not have any requirements that are equivalent to 30 CFR 57.4760 requirements for air control doors or alternative ventilation measures for the bottom, or near the bottom of coal mine intake shafts. The ventilation requirements applicable to Class III mines were specifically tailored to suit the conditions in a gassy trona mine like the Tata mine. Petitioner strongly contends that miners are already afforded adequate and equivalent protection via compliance with the fire prevention and control, and the ventilation requirements applicable to Class III mines. Mine rescue rules and basic ventilation flow principles dictate what changes in ventilation should be made in emergency situations, including a fire. Petitioner has a refuge and evacuation procedure set forth in the Mine's Emergency Response Plan. When a fire is detected underground, the mine's Emergency Response Plan is immediately implemented, and miners are trained on how to evacuate in a safe and swift manner depending on the location of the ignition. The mine maintains three designated separate escapeways which reduces the likelihood of miners having to travel through or past smoke or toxic gasses.

The petitioner asserts that compliance with the existing standard results in a diminution of safety to the miners at the Tata Mine.

Dated: July 2, 2015.

Sheila McConnell
Acting Director,
Office of Standards, Regulations, and Variances.

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